

CITY OF DELAWARE CITY

407 Clinton Street - P.O. Box 4159 Delaware City, Delaware 19706 302-834-4573

CITY OF DELAWARE CITY REGULAR MAYOR AND COUNCIL MEETING APRIL 8, 2013

CALL TO ORDER - MAYOR AND COUNCIL MEETING

The Honorable Mayor Buchheit called to order the regular meeting of the Mayor and Council at 7:30 p.m. Present were Council Members Barrett, Titus, Johnson, Sullivan and Green. Also present were City Manager Cathcart, City Treasurer Hartman and City Secretary Gwynn.

INVOCATION AND PLEDGE OF ALLEGIANCE

The Honorable Mayor Buchheit led the Pledge of Allegiance and a Moment of Silence.

ACTION UPON TREASURER'S REPORT OF THE PREVIOUS MONTH

City Treasurer Hartman gave the Treasurer's Report for the month of March 2013. City Manager Cathcart said a Budget Workshop date would be set soon, as City Treasurer Hartman, Chief Tjaden and he would be putting the budget together as soon as the revenue projections were made. The City Manager reported that publishing the names of the residents with delinquent taxes and/or water had a significant impact on collection efforts. City Treasurer Hartman said she could have the actual figure by Thursday. Council Member Sullivan made a motion to approve the March 2013 Treasurer's Report, subject to audit. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.

Council Member Sullivan asked if the City had received the Delaware City Athletic Association's information so the City could make the donation that was approved at the last Mayor and Council meeting. City Treasurer Hartman said

that she had talked to Chairperson Julie Johnston who said she would send the information. The City Treasurer said she would follow-up.

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

Council Member Barrett made a motion to approve the minutes of the March 18, 2013 regular Mayor and Council Meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.

CITIZENS COMMENTS

There were none.

RECESS

Council Member Barrett made a motion to recess the meeting until 6:00 PM on Thursday, April 11, 2013. Council Member Green seconded the motion. A vote was taken, all ayes, motion carried.

RECONVENED MAYOR AND COUNCIL MEETING APRIL 11, 2013

The Honorable Mayor Buchheit reconvened the Regular Mayor and Council Meeting at 6:00 pm. Present were Council Members Barrett, Titus and Green. Also present were City Manager Cathcart, City Secretary Gwynn, Police Chief Tjaden, and Counselor Griffiths who attended on behalf of City Solicitor Walton. Council Member Johnson arrived at 6:15 PM.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

The Honorable Mayor Buchheit led the Pledge of Allegiance and a Moment of Silence for the City's sick and recently departed.

MAYOR BUCHHEIT'S COMMENTS

The Honorable Mayor Buchheit thanked his partner of 22 years, Dale Slotter, for being supportive. He said his greatest accomplishment as Mayor was hiring City Manager Cathcart. He said the City was without a City Manager for 10 months and when Mr. Cathcart was hired, he took the ball and ran with it. He thanked City Manager Cathcart for all his hard work. He also thanked the City Staff and the City Commissioners who serve on HPC, PC and the Board of Health. He also thanked the Police Department and the City's first responders. He thanked the Fire Hall for offering their hall to be used for Council Meetings when the City needed it. He congratulated new elected Mayor Green and Council Member Malinowski. He said he looked forward to the next two years.

CERTIFICATION OF THE ELECTION

Board of Election member Lincy Baffone read the Election Certification, stating that there were a total of 367 voters. The votes for Mayor were distributed as follows: Stanley E. Green – 265 votes, Natalie Green – 2 votes, Paul Johnson – 3 votes, and Mark Bendler – 1 vote. The votes for Council were distributed as follows: John P. Buchheit, III – 176 votes, Elizabeth (Beth) Konkus – 153 votes, Nicholas Kroll – 151 votes, Kristina B. Lynn - 45 votes, Robert Malinowski – 201 votes, and W. Andrew Wessells – 16 votes. Miqui Beaston was the chairperson of the Election Board. The other board members were Lincy Baffone, April DeBenedictis and Bonnie Hanna.

SWEARING IN OF NEWLY ELECTED MAYOR

Mayor Buchheit sworn in Stanley E. Green as Mayor for a two year term.

The Honorable Mayor Green recognized Linda Price who was the acting City Manager at one time and Lisa Lindsey who was in attendance representing the Delaware City Refining Company. He thanked Jen Sullivan for serving on Council. Mayor Green also thanked former Mayor Buchheit for representing Delaware City well over the last two years and welcomed him as a new Council Member. He welcomed Council Member Malinowski and thanked him for his years of service to the City. He also thanked Vice Mayor Paul Johnson for all he does for the community. He thanked City Manager Cathcart and said he looked forward to working with him. He also said he looks forward to serving the citizens of Delaware City.

SWEARING IN OF NEWLY ELECTED COUNCIL MEMBERS

Mayor Green swore in John P. Buchheit, III for a two year term as a Council Member.

Mayor Green swore in Bob Malinowski for a two year term as a Council Member.

ELECTION AND SWEARING IN OF THE VICE-MAYOR

Council Member Barrett nominated Council Member Johnson to serve as Vice Mayor. Council Member Buchheit seconded the nomination. A roll call vote was taken, all ayes. Council Member Johnson was elected to be the new Vice Mayor. Mayor Green swore in Council Member Paul H. Johnson, Sr. as the new Vice Mayor.

PRESENTATION BY FORMER MAYOR BUCHHEIT

Former Mayor Buchheit presented a check to Fort Delaware in the amount of \$16,500 and to the Friends of The African Union Cemetery in the amount of \$16,500. These were proceeds from the Mayor's Ball that was held earlier in the spring.

POLICE REPORT

Police Chief Tjaden reported the statistics for the month from March 11, 2013 through April 10, 2013, with 27 total arrests: 5 criminal arrests, 21 traffic arrests and 1 drug arrest. He also reported the following activity:

- Executed a search warrant for Lot 63 in the trailer park as a resident was trying to sell marijuana on Facebook. They recovered a stolen hand gun along with drug paraphernalia. They also found the man, at Lot 30, who stole the gun.
- Attended the New Castle County Police Chiefs meeting and was asked to sit on the new Police Range Committee, working with Senator Coons' office.
- Investigated the theft of several checks and credit cards that were removed from a home in Harbor Estates. Arrests were made. The suspect was the daughter of the victim.
- Assisted in a very large steel theft at the refinery. Delaware City Police developed a suspect and found that the suspect had sold several thousand pounds of steel from the refinery and the Christiana Hospital, to a scrap yard. The suspect was stopped by the NCCPD as he was leaving the scrap yard and held for DCPD. He was ID'd by refinery security as the suspect removing the steel. His vehicle was seized and the investigation was turned over to the Delaware State Police. Recovered 99% of the property that was stolen.
- Hired a new police officer to start on April 23, 2013. Chief Tjaden thanked City Manager Cathcart and Mayor Green for assisting with the interviews.
- Permits for the duathalon have been issued by DelDOT.
- The drug take back program will be on April 27th in the parking lot at Town Hall. They will collect any expired drugs, unused needles, etc.

INTERIM CITY SOLICITOR'S REPORT

Chris Griffiths, on behalf of Interim City Solicitor Walton, reported the following:

- Responded to a FOIA request from the ACLU regarding the City's use of SWAT teams and certain teams. The request was denied as the City does not have a SWAT team.
- Received an informal comment and correspondence from Council regarding Ordinance 13-0318-01. Responded to the comment, but have not received a reply.
- Submitted the recommended Charter amendments to the State Legislature.

CITY MANAGER'S REPORT

City Manager Cathcart reported the following:

- Received an award notice for the Delaware Coastal Programs Grant for the \$50,000 grant applied for last month. This is a matching grant and special thanks go out to the Delaware City Refinery for \$20,000 match and Kevin Donnelly, NCC Conservation District for \$5,000.
- Spoke at the Southern New Castle County Rotary Club about "Happenings in Delaware City".
- Met with the Building Committee of the Library Society and finalized the lease terms and language.
- Conducted interviews for the fulltime Police Officer position. The interview panel included Chief Tjaden, Councilman Green as well as City Manager. We selected David Burns, with 20+ years' experience with New Castle County police, as the successful candidate. Officer Burns starts work on April 23rd.
- Met with Lee Ann Walling, Chairperson of the Fort DuPont Redevelopment Steering Committee for an update on their meeting in Boston with Sasiki, the consultants developing the Master Plan. Councilman Green and Mark Chura attended the meeting as well.
- Met with Maria Pini from the Catholic Heart Workcamp Organization who
 has selected Delaware City to do community projects this summer. The
 organization will select about six projects including private residential
 properties that need help with improvements, at no cost to the home
 owner, such as painting, general cleanup, ramp repairs etc.
- Set date for Budget Workshop on April 30th at 6 PM at Town Hall. Will finalize the Operating and Capital Budget.
- Received a signed lease and security deposit from The Reedy Point Players. Special thanks go out to Mike Hendry for all his involvement in getting this done.
- We are now accepting credit cards for payment of water and tax bills.

GENERAL MEETINGS

- Delaware City Rail update meeting with State Legislature.
- Delaware City Day Committee Meeting (3rd Thursday at 6:00 PM).
- Planning Commission.
- Library Society Board Meeting.

PROJECT UPDATES

 Solar Array System installation is completed. We are now waiting for the actual interconnection to take place that allows us to implement our PPA. We have set April 30th as a tentative date for the dedication of the system. Trying to get this on the Governors calendar.

- Branch Canal Project still in waiting. Received update from Army Corps that three pieces of information are still needed.
- Fire and Security System has been activated in Town Hall.
- Construction of the Community Garden will be completed this week. There
 is a meeting schedule April 17th at 7 PM in the Community Center.
 Residents can sign up for the garden plots that evening.
- Dragon Run Tide Gate Update Received the design documents and report. There are two concept designs: 1.) Improvements and reconstruction of the levy on Dragon Run and installation of a check valve on Monroe Street outlet at a cost of \$550,000; 2.) Construction of a horseshoe berm from Monroe Street, behind the houses of Solomon Street and curving back in. It would take care of up to 50 year flood at a cost of \$320,000. The City also requested that they look at a temporary fix for the tide gate. They estimate that cost at \$75,000. The City asked them to look at less expensive alternatives. They recommend that the City do nothing at this time, as there would be no benefit from a temporary fix.

Met preliminarily with the Legislature and DNREC to see where the funding to fix this would come from. The City may know more by the end of the legislative session.

Council said they know the City is taking the lead on the flood gate, but asked who is really responsible for this. City Manager Cathcart said DNREC has some responsibility, DelDOT has some and New Castle County Soil Conservation District has some responsibility, and has stepped up to the plate by helping raise the money for the \$30,000 engineering report and have committed to \$5000 for the flood planning grant. He said the legislators are helping make the case that this is not Delaware City's responsibility. Delaware City has raised \$80,000 to study the problem and find a solution. It is the State's responsibility. Two years ago the State Legislature made an appropriation to fix the dykes in New Castle. City Manager Cathcart said the legislators are engaged and going to do everything in their power to get the money to make this fix. Discussion followed regarding the grant for Monroe/Madison Street Flood Planning. This was for the planning piece to resolve this issue.

Discussion followed regarding planning for the Solar Array dedication.

Discussion followed regarding the Library lease. Met with the Library building committee to resolve any outstanding issues. The board will meet 4/17/13, at which time, hopefully, the lease will be signed.

Council asked if the new police officer, who was hired, has all his certifications. Chief Tjaden said he as everything except re-qualification at the range.

Council also asked about the kids that are coming in to do the work in Delaware City. Discussion followed.

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Board of Health – Mayor Green said the Board of Health did not meeting this month, as they are still working on the finalization of the draft to be presented in May.

<u>Delaware City Day Committee</u> - City Manager Cathcart said all is going well, with each chairperson working on what their committee needs to accomplish. He said there is going to be a silent auction on May 17, 2013, to raise money for Delaware City Day.

Main Street Delaware City – Mark Chura said the University of Delaware is doing a "walkability" assessment of the City of Delaware City. They focus on curbs, conditions of sidewalks, etc.

April 17th is the next Community Garden meeting.

Movie Night at the Community Center went well with about 25 kids in attendance. He thanked Pampered Pets who sponsored the event and provided popcorn. The next Movie Night will be April 26th at 6:30. It is free and all are welcome.

Main Street's board meeting will be held 4/26/13 at 6:00. They are going to have a Community Center Open House with the Library, Reedy Point Players and PAL.

April 27th will be the Townwide Yard Sale. The City has been working with the City of New Castle to encourage people on Route 9 to have yard sales so that people could yard sale from Delaware City to New Castle. There will be craft vendors in Battery Park.

Council asked if the issues regarding moving rooms and the use of rooms within the Community Center have been resolved. City Manager Cathcart said that all those issues have been resolved. Discussion followed regarding the number of hours Main Street has spent managing the Community Center.

APPOINTMENTS, ANNOUNCEMENTS AND COMMUNICATIONS

The Honorable Mayor Green made a recommendation that Michelle Hartman be re-appointed as City Treasurer. Council Member Johnson made a motion to re-

appoint Michelle Hartman as City Treasurer. Council Member Malinowski seconded the motion. A roll call vote was taken, all ayes, motion carried. City Manager Cathcart reiterated that City Treasurer Hartman was not in attendance due to a funeral. Mayor Green said he would swear her in at Town Hall.

The Honorable Mayor Green made a recommendation to re-appoint Dawn Gwynn as City Secretary. Council Member Titus made a motion to reappoint Dawn Gwynn as City Secretary. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried. Mayor Green swore in Dawn Gwynn as City Secretary.

RECESS MAYOR AND COUNCIL MEETING

Council Member Buchheit made a motion to recess the Mayor and Council Meeting for the Board of Appeals. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.

CONVENE BOARD OF APPEALS 4th Quarter FY13 Supplemental Tax Assessment

The Honorable Mayor Green convened the Board of Appeals. City Manager Cathcart explained that of the three names on the list, two of the residents were deceased. Their names were on the list because they had had Senior Exemptions that were revoked upon their death. Mayor Green asked if anyone was in attendance regarding the 4th Quarter FY13 Supplemental Tax Assessment. There was no one in attendance to discuss their tax assessment. Acting City Solicitor Griffiths looked at the City Code and said the Board of Appeals, under the circumstances, could be adjourned early.

RECESS BOARD OF APPEALS

The Honorable Mayor Green recessed the Board of Appeals 4th Quarter FY13 Supplemental Tax Assessment.

<u>CALL TO ORDER – PUBLIC HEARING - ORDINANCE 13-0318-01 RELATING TO LEASEE/TENANT EVICTION POLICY</u>

Acting City Solicitor Griffith explained that comments were raised by Counsel Wendy Stabler (represents Mr. Leeds, owner of Delaware City Mobile Home Park) about the following:1) State Code allows the landlord to take action following one conviction while the Delaware City Code requires a landlord to evict the tenant following two convictions: 2)The City Statute needs to say explicitly that the two convictions need to occur in the mobile home park (City explained that this statute applied to all landlords/tenants throughout the City). Consequently, this ordinance states that after two convictions within a twelve month period by a tenant at their leased premises, "the nature of which at the

time of the crime or act caused immediate and irreparable harm to any person or property, the owner or landlord of said premises is required to provide written notice to the tenant of the commencement of eviction proceedings..." Discussion followed.

Council asked how this would be enforced. City Manager Cathcart said the procedures are not in writing yet, but his thoughts are that the police would be able to track it electronically through DELJUS. After the second conviction, the City would send a letter to landlord, instructing him/her to evict tenant. Landlord would then go to Magistrate Court. If landlord doesn't follow-up, he/she would be fined \$100 per day by the City. If the landlord does not pay fine, the City would place a lien against the property.

City Manager Cathcart said if this ordinance is passed, the City will contact all landlords, informing them of the enactment of this ordinance with a brief summary and recommend that they incorporate this in their lease. Discussion followed.

Mayor Green asked if there were any questions or comments from the public.

<u>Joe Augustine</u>, 211 Jefferson Street, asked if someone were evicted from one property, could they move to another property in the City. Acting City Solicitor Griffiths said it would be open to interpretation but it looks pretty firm that with two convictions within 12 months, they would not be allowed the stay in another rented property in Delaware City.

ADJOURN PUBLIC HEARING

Council Member Buchheit made a motion to adjourn the public hearing. Council Member Malinowski seconded the motion. A vote was taken, all ayes, motion carried.

RECONVENE MAYOR AND COUNCIL MEETING

Mayor Green reconvened the Mayor and Council Meeting.

OLD BUSINESS

Loan Agreement with Main Street for Community Garden

City Manager Cathcart said he had explained this loan at the last meeting. He reminded the Mayor and Council that it would be approximately \$7000, from Main Street's penalty funds to pay for the installation of water and electric at the Community Garden. The electric lights would also light the parking lot behind the Library. He added that when the City finds a grant and is awarded funds, the loan would be repaid, however there is no term or interest on the loan. Discussion followed. City Manager Cathcart said the water would be locked so kids could not

turn it on and let it run. Council Member Buchheit made a motion to approve the loan agreement with Main Street Delaware City for the electric and water installation at the Community Garden, in the amount of \$7000. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.

<u>Second Reading and Adoption of Ordinance 13-0318-01 Relating to</u> <u>Leasee/Tenant Eviction Policy</u>

Council Member Buchheit made a motion for the second reading and adoption of Ordinance 13-0318-01, Relating to the Leasee/Tenant Eviction Policy. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.

<u>Consideration of Addition to Charter Changes – Terms of Office of Elected</u> Officials

Mayor Green asked City Manager Cathcart what risks are created by adding additional Charter changes at this point, as the original Charter changes are under consideration in the Legislature. City Manager Cathcart said there may be time to have any new changes approved during this Legislative session, but possibly not. Discussion followed regarding the additional changes being proposed. One change was to extend the term for future Mayor and Council Members from two to three years. Council reached a consensus that they would prefer to let the Charter changes that have already been submitted, continue through the process within the Legislature. They could revisit this in the future, when, if decided upon, this and any other changes could be sent to the State Legislature. Council Member Malinowski asked if a referendum was required to change the Charter. City Manager Cathcart said that they do not. City Manager Cathcart said they did not need a motion to make no additional changes at this time. Mayor Green tabled the discussion.

NEW BUSINESS

<u>Set Special Meeting to Approve Annual Assessment FY14 & Discuss Date for</u> Annual Board of Appeals

City Manager Cathcart said the special meeting needs to be held before May 8th and suggested meeting May 6th. He also suggested that the Annual Board of Appeals be held the same night as the regularly scheduled Mayor and Council meeting which is May 20, 2013. Council Member Titus made a motion to set the Special Meeting for May 6, 2013 at 6:00 PM and the Board of Appeals for May 20, 2013 at 6:00. Council Member Barrett seconded the motion. A vote was taken, all ayes, motion carried.

COUNCIL COMMENTS

Council Member Buchheit said when he, City Manager Cathcart, and other volunteers picked up dog pooh in the park, he noticed that there were a lot of cigarette butts. He asked for confirmation that the parks are "smoke free". City

Manager Cathcart confirmed that the parks are "smoke free" and said he has ordered signs asking people to clean up after their dogs. Discussion followed.

Council Member Johnson said he thought it would be beneficial if Main Street would do a presentation all about Main Street. He said it would be helpful for people to know what Main Street represents and how it is funded. People have asked how the settlement money came about and what the capital plan is going forward. This presentation would put a lot of rumors to rest. Main Street's Mark Chura agreed that this would be helpful and he would welcome the opportunity. He explained the settlement money that came to Main Street came from a broader settlement with Texaco. About \$350,000 went to Delaware City and was incorporated into the branch canal project. The Audubon Society received a large amount of money. Their lawyers recommended where the money would go. The money that came to Main Street was designated for eco-tourism.

Mayor Green gave report of his activity during the last month when he was still a Council Member.

CITIZENS COMMENTS

Mayor Green read a statement, saying this is an opportunity to express one's concern or make a statement. All should honor this free speech and respect everyone's opinion, whether agreeing or disagreeing. This is an open forum for the citizens and should questions arise, the following should happen: 1) if there is a non-procedural question and a quick answer can be given, that will be done. However this is not a question and answer time, but rather a comment time; 2) if there is a procedural question, it needs to be in writing and the Mayor and City Manager will act upon it quickly and respond. If someone needs assistance, the Mayor and Council are available.

<u>Paul Parents</u>, 300 Bayard Street, said it is very difficult to hear anyone speaking from the Council table, and that could be helped by a better sound system.

He recommended that City Manager Cathcart and the City Solicitor reference Leeds vs. Delaware City 1997, Superior Court Delaware. The City attempted to impose fines connected to the water system. Superior Court said the City had no statutory authority to ask for fines as the City had no Alderman. City Manager Cathcart said they have referenced it.

Mr. Parets asked why the Citizens Comments has been moved from before Old Business to the end of the meeting. He recommended that they be moved back to the space on the agenda before Old Business.

<u>Tim Dilliplane</u>, 118 Clinton Street, asked why senior citizens and disabled residents must reapply for the tax/water exemption annually. City Manager Cathcart said it was in place long before he started to work for the City. He said it

is in either the Charter or the Code, but that he would look into it. Mr. Dilliplane questioned meeting times.

Mayor Green asked the Council if anyone was interested in changing the time for Council Meetings going forward. It was decided that this discussion would be placed on the agenda for the May meeting.

<u>Tim Konkus</u>, 302 Canal Street, said that whenever something of import came before the Council, former Mayor Buchheit allowed everyone who wished to speak, speak.

Sandy Malinowski, 304 Bayard Street, thanked City Manager Cathcart for the fence around the playground at the Community Center. She said the only problem is that the children can't reach the latch. She recommended that the lock be adjusted. City Manager Cathcart said if he removes the lock, parents will complain. Discussion followed. Mayor Green said it will be checked into and they would respond to Ms.Malinowski.

RECONVENE BOARD OF APPEALS

Mayor Green reconvened the board of appeals and asked if there was anyone present to appeal their supplemental tax assessment. There was no response. As the acting City Solicitor commented earlier, there did not appear to be a reason to keep the Board of Appeals open until 9:00 PM.

ADJOURN BOARD OF APPEALS

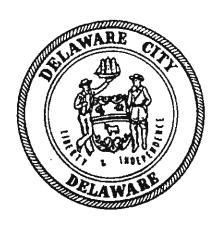
Council Member Johnson made a motion to adjourn the Board of Appeals 4th Quarter FY13 Supplemental Tax Assessment. Council Member Buchheit seconded the motion. A vote was taken, all ayes.

ADJOURNMENT

Council Johnson made a motion to adjourn the meeting. Council Member Barrett seconded the motion. A vote was taken, all ayes, motion passed. The meeting was adjourned at 8:10 pm.

Respectfully submitted,

Dawn K. Gwynn City Secretary



ATTENDANCE SHEET - PLEASE SIGN IN

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